

STATE OF MICHIGAN  
COURT OF APPEALS

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CASSANDRA M. BOWER,

Plaintiff-Appellee,

v

CITY OF PLYMOUTH,

Defendant-Appellant.

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UNPUBLISHED

August 2, 2005

No. 253049

Wayne Circuit Court

LC No. 02-236772-NO

Before: Borrello, P.J. and Bandstra and Kelly, JJ.

PER CURIUM.

Defendant appeals as of right the trial court's order denying its motion for summary disposition pursuant to MCR 2.116(C)(7). We reverse and remand for entry of an order of summary disposition in defendant's favor. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff fell while descending a stairway adjacent to a parking structure owned and operated by defendant. Plaintiff commenced this action to recover for injuries suffered in the fall. Defendant filed a motion for summary disposition under MCR 2.116(C)(7) on the basis that governmental immunity barred plaintiff's claims. MCL 691.1407(1). Plaintiff countered that the public building exception applied because the stairway was a fixture through constructive annexation to the parking structure. MCL 691.1406. The trial court denied defendant's motions for summary disposition and reconsideration.

Defendant contends that the trial court erred in its determination that the stairway came within the public building exception to governmental immunity. We agree. We review de novo a trial court's ruling on a motion for summary disposition and governmental immunity issues. *Pierce v Lansing*, 265 Mich App 174, 176; 694 NW2d 65 (2005).

"Under MCL 691.1407(1), a government agency is generally immune from suit for actions undertaken in the performance of its governmental functions." *Fane v Detroit Library Comm*, 465 Mich 68, 74; 631 NW2d 678 (2001). This immunity is limited by narrowly drawn exceptions. *Id.* The trial court erred in ruling that the stairway fell within the public building exception. The stairway was not attached to the parking structure itself, but rather to a pedestrian walkway near the point where the walkway connected to the parking structure. One did not have to enter the parking structure to use the stairs, and one did not have to use the stairs to exit the structure. Thus, the alleged defect in the stairway was not "of the building itself." *Horace v*

*Pontiac*, 456 Mich 744, 756-757; 575 NW2d 762 (1998). Nor was the stairway a fixture of the parking structure: the stairway was not annexed to the parking structure through its use, and was not attached to the parking structure itself. See *Fane*, *supra* at 78. Further, the stairway was not “of a public building” because it could be removed from the pedestrian bridge without impairing the function of either the bridge or the parking structure itself. See *id.* at 78-79. For these reasons, we conclude that the trial court erred when it denied defendant’s motion for summary disposition under MCR 2.116(C)(7). Because our resolution of this issue disposes of this appeal, we need not address the other issues raised on appeal.

Reversed and remanded for entry of an order of summary disposition in favor of defendant. We do not retain jurisdiction.

/s/ Richard A. Bandstra  
/s/ Kirsten Frank Kelly